

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

RYAN KARNOSKI, et al.,)	
)	
Plaintiffs,)	
v.)	Civil Action No. 2:17-cv-01297 (MJP)
)	
DONALD TRUMP, et al.,)	
)	
Defendants.)	
)	

DECLARATION OF CPT TIMOTHY J. McCACKEN

(Pertaining to Plaintiff Cathrine Schmid)

I, Timothy J. McCracken, hereby declare as follows:

1. I am a Captain in the U.S. Army currently serving as the Commander, Headquarters and Headquarters Company, 201st Expeditionary Military Intelligence Brigade, at Joint Base Lewis-McChord, Washington. I have been in the Army for over seven years, and I have been in command since September 2017. As a company commander, I am the senior officer within my unit and responsible for all the personnel and equipment within my unit, including processing personnel actions for soldiers under my command. I make this declaration based on my personal knowledge and on information provided to me in the course of my official duties. I submit this declaration in support of the defendants' motion to dismiss the above-captioned action and in opposition to the plaintiffs' motion for a preliminary injunction. In particular, I address below the current status of Staff Sergeant (SSG) Cathrine Schmid in the present litigation. SSG Schmid currently has an approved medical treatment plan for gender transition, and her gender marker in the Defense Enrollment Eligibility Reporting System (DEERS) is female.

2. On September 14, 2017, the Secretary of Defense's issued Interim Guidance prohibiting the involuntary separation or discharge of a soldier due to his or her transgender status or diagnosis of gender dysphoria. In compliance with this policy, no soldier in my unit, to include

SSG Schmid, is currently pending separation or discharge due to their transgender status or gender dysphoria diagnosis. Nor will any soldier in my unit face such a separation, absent a change in the existing policy. Further, no soldier in my unit whose term of service expires while the Interim Guidance is in effect will be denied re-enlistment due to his or her transgender status. Accordingly, SSG Schmid will not be discharged due to her transgender status while the Interim Guidance is in effect.

3. In June 2017, SSG Schmid applied to become a warrant officer through an accessions program with U.S. Army Recruiting Command. Along with her application, she submitted a request for an Active Federal Service (AFS) waiver because she exceeded the maximum years of service allowed by Army regulation to become a warrant officer. In accordance with the Secretary's Interim Guidance concerning accessions, her application and request for an AFS waiver are currently on hold until further guidance is issued. However, the Interim Guidance clarifies that applicants may continue to request waivers in accordance with DODI 6130.03 for medically disqualifying conditions, including standards of fitness related to gender dysphoria or gender transition. SSG Schmid has been advised of the opportunity and procedures necessary to submit such a waiver, but to date she has not elected to do so.

In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed this 13 day of October 2017.



Timothy J. McCracken
Captain, U.S. Army
Joint Base Lewis-McChord, Washington

1
2 **CERTIFICATE OF SERVICE**
3

4 I hereby certify that on October 16, 2017, I electronically filed the foregoing declaration
5 using the Court's CM/ECF system, causing a notice of filing to be served upon all counsel of
6 record.

7 Dated: October 16, 2017

8 */s/ Ryan Parker*
9 RYAN B. PARKER
10 Senior Trial Counsel
11 United States Department of Justice
12 Civil Division, Federal Programs Branch
13 Telephone: (202) 514-4336
14 Email: ryan.parker@usdoj.gov

15 Counsel for Defendants